

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JODIE D. GRAGG,

Plaintiff,

v.

GRAYS HARBOR PROSECUTOR'S  
OFFICE, *et al*,

Defendants.

Case No. C07-5496RJB-KLS

ORDER REGARDING  
PLAINTIFF'S REQUEST FOR  
RETURN OF FUNDS

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court on plaintiff's filing of a letter addressed to the Clerk, requesting that the Court order a return of certain funds taken from his jail account for payment of the Court's filing fee. (Dkt. #8). After reviewing plaintiff's request and the balance of the record, the Court finds and orders as follows:

On October 12, 2007, the Court granted plaintiff's application to proceed *in forma pauperis*. (Dkt. #3). On November 1, 2007, the Court directed the Clerk to dismiss the complaint without prejudice (Dkt. #7) pursuant to plaintiff's motion to do so (Dkt. #6). In his letter to the Clerk, plaintiff states that the Grays Harbor Correctional Facility took the last \$10.16 in his account to go toward payment of the filing fee in this case, despite the fact that the above dismissal already had occurred. Plaintiff further states that it is his impression that the Court and the Grays Harbor Correctional Facility does not take the last ten

1 dollars in an inmate's account. He thus requests that the Court order the Grays Harbor Correctional  
2 Facility return those funds to his account.

3 Although the Court cannot speak for the Grays Harbor Correctional Facility's policies, there does  
4 not appear to be any error on that facility's deduction of the \$10.16 here. The express language of the  
5 order granting plaintiff *in forma pauperis* status in this case reads as follows:

6 The Court, having reviewed plaintiff's application to proceed *in forma*  
7 *pauperis*, does hereby find and ORDER.

8 Plaintiff's declaration indicates he is unable to afford the Court's filing fee or  
9 give security therefor. Accordingly, plaintiff's application to proceed as a pauper is  
10 **GRANTED. As set forth below, an initial partial filing fee will be collected, and**  
11 **plaintiff is required to make monthly payments of 20 percent of the preceding**  
12 **months income credited to his/her account until the full amount of the filing fee is**  
13 **satisfied.**

14 Pursuant to 28 U.S.C. § 1915 and plaintiff's approved application to proceed *in*  
15 *forma pauperis*, the agency having custody of the above named plaintiff is directed to  
16 calculate an initial partial filing fee equal to 20 percent of greater of -- the average  
17 monthly deposits to the prisoner's account or the average monthly balance in the  
18 prisoner's account for the 6-month period immediately preceding the date of this Order.  
19 The initial partial filing fee should be forwarded to the Clerk as soon as practicable.

20 Subsequently, if the prisoner's account exceeds \$10.00, each month the agency  
21 is directed to collect and forward payments equal to 20 percent of the prisoner's  
22 preceding month's income credited to the prisoner's account. In the event that the  
23 monthly payment would reduce the prisoner's account below \$10.00, the agency should  
24 collect and forward only that amount which would reduce the prisoner's account to the  
25 \$10.00 level. Please note that this \$10.00 limit does not apply to the initial partial  
26 filing fee described above. Finally, the monthly payments should be collected and  
27 forwarded to the court until the entire filing fee (\$350.00) for this matter has been paid.

28 The Clerk is directed to send plaintiff a copy of this Order and the General  
Order, and a copy of this Order along with a copy of plaintiff's Acknowledgement and  
Authorization portion of the IFP application to the attention of the inmate account  
manager (IFP account manager at the Grays Harbor County Correctional Facility).

(Dkt. #3, pp. 1-2). Thus, as can be seen, while no subsequent monthly payment may reduce an inmate's  
account below the \$10.00 threshold, the initial partial filing fee has no such restriction. In addition, the  
written consent form signed by plaintiff states as follows:

By choosing to bring a civil rights action, I acknowledge I am responsible for payment  
of the full \$350.00 filing fee under 28 U.S.C. § 1915. I authorize the agency having  
custody of me to collect from my account and forward to the Clerk of the United States  
District Court the initial partial filing fee calculated under the Certification and  
Calculation section and payments pursuant to 28 U.S.C. § 1915(b). I understand I am  
required to make monthly payments of twenty (20) percent of my preceding month's  
income credited to my account and the agency having custody of me will forward funds  
to the Clerk of the United States District Court each time the amount in the account  
exceeds ten (\$10.00) dollars until the filing fee is paid in full.

(Dkt. #1, p. 3).

Plaintiff thus should have been well aware not only of his obligation to repay in full the filing fee,

1 but that it would be only with respect to the subsequent monthly payments that his jail account would not  
2 be reduced below the \$10.00 minimum. As noted above, the Court's order granting *in forma pauperis*  
3 status was issued on October 12, 2007. From the jail account summary attached to plaintiff's letter, it  
4 appears the \$10.16 was taken from his account shortly thereafter, on October 22, 2007. As such, it seems  
5 this deduction was for the purpose of collecting the initial partial filing fee. The fact that this case already  
6 had been dismissed, furthermore, is irrelevant, as nothing in the Court's order, the written consent  
7 plaintiff signed, or 28 U.S.C. § 1915 itself states that dismissal ends his obligation to repay the filing fee.

8 Accordingly, for all of the above reasons, plaintiff's request for the return of the \$10.16 taken  
9 from his jail account (Dkt. #8) hereby is DENIED.

10 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

11 DATED this 27th day of March, 2008.

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15 Karen L. Strombom  
16 United States Magistrate Judge  
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